

AMENDED IN ASSEMBLY AUGUST 27, 2001

AMENDED IN ASSEMBLY AUGUST 21, 2001

SENATE BILL

No. 682

Introduced by Senator Perata

*(Principal coauthors: Assembly Members Koretz, Shelley, and
Steinberg)*

(Coauthor: Senator Scott)

February 23, 2001

An act to ~~amend Section 1714 of, and to repeal Section 1714.4 of, the Civil Code, and to amend Section 11106 of the Penal Code~~ *repeal and add Section 1714.4 of the Civil Code*, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 682, as amended, Perata. Firearms.

~~Existing law provides that everyone is responsible for the result of willful acts and for injury to another occasioned by his or her want of ordinary care or skill in the management of his or her person or property, as specified.~~

~~This bill would provide, in addition, that these provisions apply to the design, distribution, and marketing of firearms and ammunition.~~

Existing law provides that no firearm or ammunition shall be deemed defective in design for purposes of a products liability action, on the basis that the benefits of the product do not outweigh the risk of injury posed by the potential to cause serious injury, damage, or death when discharged, as specified.

This bill would ~~repeal~~ *delete* those provisions *and would, instead, prohibit a person from having a cause of action for strict product liability against a manufacturer or seller of any firearm or ammunition*

solely because the firearm or ammunition was capable of causing serious injury or death. The bill would specifically preserve other causes of action against firearm and ammunition manufacturers or sellers including, but not limited to, negligence actions and product liability actions alleging manufacturing or design defects, and would not authorize or preempt local laws and regulations, as specified.

~~Existing law requires the Attorney General to maintain a registry of specified information concerning pistols, revolvers, and other firearms capable of being concealed upon the person, and to include in the registry specified data provided to the Department of Justice on the Dealer's Record of Sale. Existing law also permits specified state and local officers and officials to obtain information contained in the registry.~~

~~This bill would add city attorneys who are prosecuting a civil action to the list of officials who may obtain the registry information.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 1714 of the Civil Code is amended to~~
- 2 ~~SECTION 1. Section 1714.4 of the Civil Code is repealed.~~
- 3 ~~1714.4. (a) In a products liability action, no firearm or~~
- 4 ~~ammunition shall be deemed defective in design on the basis that~~
- 5 ~~the benefits of the product do not outweigh the risk of injury posed~~
- 6 ~~by its potential to cause serious injury, damage, or death when~~
- 7 ~~discharged.~~
- 8 ~~(b) For purposes of this section:~~
- 9 ~~(1) The potential of a firearm or ammunition to cause serious~~
- 10 ~~injury, damage, or death when discharged does not make the~~
- 11 ~~product defective in design.~~
- 12 ~~(2) Injuries or damages resulting from the discharge of a~~
- 13 ~~firearm or ammunition are not proximately caused by its potential~~
- 14 ~~to cause serious injury, damage, or death, but are proximately~~
- 15 ~~caused by the actual discharge of the product.~~
- 16 ~~(c) This section shall not affect a products liability cause of~~
- 17 ~~action based upon the improper selection of design alternatives.~~
- 18 ~~(d) This section is declaratory of existing law.~~
- 19 ~~SEC. 2. Section 1714.4 is added to the Civil Code, to read:~~

1714.4. A person shall not have a cause of action for strict product liability against a manufacturer or seller of any firearm or ammunition solely because the firearm or ammunition was capable of causing serious injury or death. This section shall preserve all other causes of action against firearm and ammunition manufacturers or sellers including, but not limited to, negligence actions, product liability actions alleging manufacturing or design defects, public and private nuisance actions, and statutorily based actions. This section may not be construed to authorize or preempt local laws and regulations concerning the civil liability of firearm manufacturers or sellers.

read:

~~1714. (a) (1) Every one is responsible, not only for the result of his willful acts, but also for an injury occasioned to another by his want of ordinary care or skill in the management of his property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself. The extent of liability in such cases is defined by the Title on Compensatory Relief.~~

~~(2) Paragraph (1) shall apply to the design, distribution, and marketing of firearms and ammunition.~~

~~(b) It is the intent of the Legislature to abrogate the holdings in cases such as Vesely v. Sager (5 Cal. 3d 153), Bernhard v. Harrah's Club (16 Cal. 3d 313), and Coulter v. Superior Court (21 Cal. 3d 144) and to reinstate the prior judicial interpretation of this section as it relates to proximate cause for injuries incurred as a result of furnishing alcoholic beverages to an intoxicated person, namely that the furnishing of alcoholic beverages is not the proximate cause of injuries resulting from intoxication, but rather the consumption of alcoholic beverages is the proximate cause of injuries inflicted upon another by an intoxicated person.~~

~~(c) No social host who furnishes alcoholic beverages to any person shall be held legally accountable for damages suffered by such person, or for injury to the person or property of, or death of, any third person, resulting from the consumption of such beverages.~~

SEC. 2. Section 1714.4 of the Civil Code is repealed.

SEC. 3. Section 11106 of the Penal Code is amended to read:

11106. (a) In order to assist in the investigation of crime, the arrest and prosecution of criminals, and the recovery of lost,

1 ~~stolen, or found property, the Attorney General shall keep and~~
2 ~~properly file a complete record of all copies of fingerprints, copies~~
3 ~~of applications for licenses to carry firearms issued pursuant to~~
4 ~~Section 12050, information reported to the Department of Justice~~
5 ~~pursuant to Section 12053, dealers' records of sales of firearms,~~
6 ~~reports provided pursuant to Section 12072 or 12078, forms~~
7 ~~provided pursuant to Section 12084, reports provided pursuant to~~
8 ~~Section 12071 that are not dealers' records of sales of firearms, and~~
9 ~~reports of stolen, lost, found, pledged, or pawned property in any~~
10 ~~city or county of this state, and shall, upon proper application~~
11 ~~therefor, furnish to the officers mentioned in Section 11105, hard~~
12 ~~copy printouts of those records as photographic, photostatic, and~~
13 ~~nonerasable optically stored reproductions.~~

14 ~~(b) (1) Notwithstanding subdivision (a), the Attorney General~~
15 ~~shall not retain or compile any information from reports filed~~
16 ~~pursuant to subdivision (a) of Section 12078 for firearms that are~~
17 ~~not pistols, revolvers, or other firearms capable of being concealed~~
18 ~~upon the person, from forms submitted pursuant to Section 12084~~
19 ~~for firearms that are not pistols, revolvers, or other firearms~~
20 ~~capable of being concealed upon the person, or from dealers'~~
21 ~~records of sales for firearms that are not pistols, revolvers, or other~~
22 ~~firearms capable of being concealed upon the person. All copies~~
23 ~~of the forms submitted, or any information received in electronic~~
24 ~~form, pursuant to Section 12084 for firearms that are not pistols,~~
25 ~~revolvers, or other firearms capable of being concealed upon the~~
26 ~~person, or of the dealers' records of sales for firearms that are not~~
27 ~~pistols, revolvers, or other firearms capable of being concealed~~
28 ~~upon the person shall be destroyed within five days of the~~
29 ~~clearance by the Attorney General, unless the purchaser or~~
30 ~~transferor is ineligible to take possession of the firearm. All copies~~
31 ~~of the reports filed, or any information received in electronic form,~~
32 ~~pursuant to subdivision (a) of Section 12078 for firearms that are~~
33 ~~not pistols, revolvers, or other firearms capable of being concealed~~
34 ~~upon the person shall be destroyed within five days of the receipt~~
35 ~~by the Attorney General, unless retention is necessary for use in a~~
36 ~~criminal prosecution.~~

37 ~~(2) A peace officer, the Attorney General, a Department of~~
38 ~~Justice employee designated by the Attorney General, or any~~
39 ~~authorized local law enforcement employee shall not retain or~~
40 ~~compile any information from a firearms transaction record, as~~

1 defined in paragraph (5) of subdivision (c) of Section 12071, for
2 firearms that are not pistols, revolvers, or other firearms capable
3 of being concealed upon the person unless retention or compilation
4 is necessary for use in a criminal prosecution or in a proceeding to
5 revoke a license issued pursuant to Section 12071.

6 (3) A violation of this subdivision is a misdemeanor.

7 (c) (1) The Attorney General shall permanently keep and
8 properly file and maintain all information reported to the
9 Department of Justice pursuant to Sections 12071, 12072, 12078,
10 12082, and 12084 or any other law, as to pistols, revolvers, or other
11 firearms capable of being concealed upon the person and maintain
12 a registry thereof.

13 (2) The registry shall consist of all of the following:

14 (A) The name, address, identification of, place of birth (state or
15 country), complete telephone number, occupation, sex,
16 description, and all legal names and aliases ever used by the owner
17 or person being loaned the particular pistol, revolver, or other
18 firearm capable of being concealed upon the person as listed on the
19 information provided to the department on the Dealers' Record of
20 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined
21 in Section 12084, or reports made to the department pursuant to
22 Section 12078 or any other law.

23 (B) The name and address of, and other information about, any
24 person (whether a dealer or a private party) from whom the owner
25 acquired or the person being loaned the particular pistol, revolver,
26 or other firearm capable of being concealed upon the person and
27 when the firearm was acquired or loaned as listed on the
28 information provided to the department on the Dealers' Record of
29 Sale, the LEFT, or reports made to the department pursuant to
30 Section 12078 or any other law.

31 (C) Any waiting period exemption applicable to the transaction
32 which resulted in the owner of or the person being loaned the
33 particular pistol, revolver, or other firearm capable of being
34 concealed upon the person acquiring or being loaned that firearm.

35 (D) The manufacturer's name if stamped on the firearm; model
36 name or number if stamped on the firearm; and, if applicable, the
37 serial number, other number (if more than one serial number is
38 stamped on the firearm), caliber, type of firearm, if the firearm is
39 new or used, barrel length, and color of the firearm.

~~(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105, to a city attorney prosecuting a civil action, or to the person listed in the registry as the owner or person who is listed as being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person in the form of hard copy printouts of that information as photographic, photostatic, and nonerasable optically stored reproductions.~~

~~(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.~~